



MAX PLANCK INSTITUTE
FOR SOCIAL LAW AND SOCIAL POLICY

Social Law Reports

Michael Fletcher

Developments in Social Legislation and Policy in New Zealand

Reported Period: 2019

Cite as: Social Law Reports No. 4/2020

© Max Planck Institute for Social Law and Social Policy, Munich 2020.

Department of Foreign and International Social Law

All rights reserved.

ISSN 2366-7893

Max Planck Institute for Social Law and Social Policy

Amalienstrasse 33, D-80799 Munich, Germany

Tel.: +49 (0)89 38602-0

Fax: +49 (0)89 38602-490

E-mail: info@mpisoc.mpg.de

<http://www.mpisoc.mpg.de>

CONTENT OVERVIEW

1. INTRODUCTION	1
2. CURRENT POLITICAL, ECONOMIC AND SOCIAL SITUATION	2
2.1. The Political Situation.....	2
2.2. Economic and Fiscal Conditions	3
2.3. Social Conditions	4
3. CASE LAW DEVELOPMENTS.....	6
4. SOCIAL POLICY AND SOCIAL LAW DEVELOPMENTS DURING 2019.....	7
4.1. The First ‘Wellbeing Budget’	7
4.2. The Welfare Expert Advisory Group’s Report <i>Whakamana Tāngata</i>	8
4.3. Independent Panel Examining the 2014 Family Justice Reforms	9
4.4. Social Welfare Benefits	9
4.5. Working for Families Family Tax Credits	10
4.6. Child Support.....	10
4.7. Social Housing and Accommodation Benefits.....	11
4.8. Paid Parental Leave	12
4.9. Minimum Wages	12
4.10. Kiwisaver	12
4.11. Public Health	13
4.12. Accident Compensation	14
5. DEVELOPMENTS RELATING TO INTERNATIONAL SOCIAL SECURITY ARRANGEMENTS	15
6. RELEVANT ACTS OF PARLIAMENT PASSED DURING 2019.....	15
6.1. Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019	15
6.2. Corrections Amendment Act.....	16
6.3. Credit Contracts Legislation Amendment Bill	16
6.4. Education (Pastoral Care) Amendment Act 2019	16
6.5. Education (School Donations) Act.....	16
6.6. End of Life Choice Act 2019.....	17
6.7. Kāinga Ora – Homes and Communities Act 2019	17
7. REFERENCES	18

LIST OF ABBREVIATIONS

- ACC ----- Accident Compensation Corporation
- GDP ----- Gross Domestic Product
- FTC ----- Family Tax Credit
- IWTC ----- In-Work Tax Credit
- MFTC ----- Minimum Family Tax Credit
- MP ----- Member of Parliament
- MPISOC ----- Max Planck Institute for Social Law and Social Policy
- NZ\$ ----- New Zealand dollar
- p. a. ----- per annum
- PM ----- Prime Minister
- PTC ----- Parental Tax Credit
- RBNZ ----- Reserve Bank of New Zealand
- StatsNZ ----- Statistics New Zealand
- WFF ----- Working for Families (Tax Credits)

1. INTRODUCTION

The year 2019 will be remembered in New Zealand for one thing above all else: the attacks on two Christchurch mosques on 15 March. The shootings, which took place during Friday prayers, killed 51 people and injured a further 50. The lone attacker used several weapons including semi-automatic rifles. He also live-streamed the first 17 minutes of the attacks on Facebook using a video camera mounted on his body, as well as publishing online an extreme white supremacist ‘manifesto’ shortly before the shootings. A 28-year-old Australian national was arrested the same day and has been charged with 51 counts of murder, 40 of attempted murder and one charge under the Terrorism Suppression Act 2002. The trial is scheduled to begin in June 2020.

By any global standards, the Christchurch shootings were a large-scale terrorist attack. On a per head of population basis, they were larger than the 9/11 attacks in the United States and similar in size to the 2011 Norway attacks. In New Zealand the impact of the shootings has been massive and far-reaching. Most of all, obviously, for the Islamic community, which makes up only about 1.2 percent of the country’s population, and which includes many who came to New Zealand as refugees escaping violence in their country of origin. It has subsequently become clear that members of the Islamic community had been alerting police and other authorities to a growing number of threats and other anti-Muslim activities but that little action had been taken. Across New Zealand society more broadly the effect has also been huge. In its recent history, New Zealand had never experienced a politically motivated terror attack of any sort¹ and most New Zealanders believed New Zealand was too small, too isolated and too peaceful for an event of this magnitude and horror to occur here. Guns are not often used in criminal activity in New Zealand, although access to firearms, including semi-automatic assault rifles, has always been relatively easy. Although discussed at the time (as well as more recently) New Zealand did not follow Australia’s example of tightening gun control laws in 1996 following the Port Arthur massacre in Tasmania.

The Prime Minister Jacinda Ardern received widespread praise both domestically and internationally for how she responded to the Christchurch shootings. Ardern’s response was immediate, genuine and empathetic and reflected her clear personal integrity and natural leadership abilities. In addition to support for those directly affected, Government passed the first of two gun-control laws within weeks of the attack. All semi-automatic, and similar, assault weapons are now banned, as are components that might enable a gun to be converted to semi-automatic capability (see Section 6.1). A gun buy-back scheme was introduced which resulted in 56,000 weapons being handed in at a cost of approximately \$100 million² by the time it ended in December. A Royal Commission of Inquiry has been established to examine

¹ With the exception, that is, of the bombing of the Greenpeace ship Rainbow Warrior by French government agents in the Port of Auckland in 1985, which killed one person.

² All dollar amounts are expressed as New Zealand dollars. At the time of writing NZ\$1.00 = €0.566.

what State sector agencies knew about the attacker before 15 March; what, if anything, was done with that information; what they could have done to prevent the attack; and what State agencies should do to prevent such attacks in future. It is scheduled to report by 30 April 2020.

On other matters, specifically social law and social policy, the Government's performance has been less decisive and swift. In January, the Prime Minister stated that '2019 I think for us as a team [i.e., the Government] is going to be characterised by the word "delivery".' While there has been some delivery in some areas, overall there has been only limited progress and little that meets Labour's early claim that it intended to be a 'transformational' government. In particular, there have been very few changes arising from the February report of the Welfare Expert Advisory Group (see Section 4.2), or from the Tax Working Group's report. The main 'transformational' issue in the tax report was the proposal to introduce a capital gains tax. The Prime Minister went as far as to rule this out not just for now but 'for as long as I am Prime Minister'. By late in the year, Government's public relations people were distancing the Government from the unfortunate 'year of delivery' phrase claiming it had been a spur of the moment invention by a Prime Ministerial speech-writer, rather than being a deliberate choice of words by Ms Ardern.

As discussed in last year's report (Fletcher, 2019), Government introduced changes to governmental budget-setting in order to require reporting on wellbeing indicators, and introduced its first 'Wellbeing Budget' in May. This is discussed in Section 4.1. Legislatively, the Social Security Act 1964 was repealed and replaced by the Social Security Act 2018 in November that year. This was a technical re-writing and simplification of the old Act and did not change policy or law. It does however mean that from this report on, provisions under the Act are referred to by the relevant section numbers in the new Act.

At the time of writing (March 2020), the public health and economic effects of Covid-19 were beginning to be felt in New Zealand. However, given that the disease was not identified until December 2019, and the first occurrence of Covid-19 in New Zealand was not until 28 February 2020, it had no impact on the year covered by this report. Its impacts and consequences will unquestionably form a significant part of next year's report.

2. CURRENT POLITICAL, ECONOMIC AND SOCIAL SITUATION

2.1. The Political Situation

The coalition between the Labour Party and the centrist New Zealand First Party with support from the Green Party of Aotearoa New Zealand continued throughout 2019 to be a stable political combination. As senior partner, Labour has been able to control most decisions, although New Zealand First has exercised its effective veto power on occasion. The minor Green Party has made progress on environmental issues critical to it, such as the Climate

Change Response (Zero Carbon) Amendment Act but has had less success with its social policy agenda.

The Opposition National Party is widely seen as having improved its performance during 2019. At the beginning of the year, Simon Bridges' hold on the party's leadership looked tenuous but, although his personal popularity in opinion polls remains weak, speculation about leadership change lessened as the year progressed. This was due largely to the party's continued strong showing in polls, as well as its more effective performance in challenging the Government. An explosive falling-out between the Leader of the Opposition and one of his close confidants, MP Jami-Lee Ross appears, at least so far, to have caused little damage to the National Party or its leader's reputation. This is despite the fact that involved allegations of illegally hiding large donations to the Party and has led to a still-ongoing investigation by the Serious Fraud Office.

Public opinion polls throughout the year have continued to be close, with some showing a combination of the Labour and Green Parties having majority support while others put National and its small ACT Party supporter just ahead. The New Zealand First Party has drifted slowly below the five percent threshold for representation in Parliament, although it typically performs better in elections than in sample polls.³

By law, the last possible date for the next general election is Saturday 21 November 2020. As is her right, the Prime Minister has announced that the election will be earlier than that, on Saturday 19 September 2020.

2.2. Economic and Fiscal Conditions

Economic activity slowed somewhat during 2019, although labour market conditions remained tight. Statistics New Zealand (StatsNZ) revised its estimates of Gross Domestic Product (GDP) for 2018 up to 3.0 percent for the year to September 2018 but its estimates for the most recent period, the year to September 2019, show a slowing of economic growth to 2.3 percent (Reserve Bank of New Zealand, 2020). The slow-down is attributed to weaker growth among New Zealand's trading partners, continued low business confidence and a slowing of both short-term visitor numbers and long-term net migration. GDP per capita grew by 0.8 percent in the year to June 2019, on a par with the 0.7 percent increase over the preceding twelve months (New Zealand Treasury, 2019).

The labour market remained reasonably strong over 2019. Employment grew by 1.0 percent in the year to December⁴. The labour force participation rate and the employment rate both

³ Under New Zealand's Mixed Member Proportional voting system a political party must either gain a minimum of five percent of the party vote or at least one electorate seat to be represented in Parliament.

⁴ Note though that Statistics New Zealand cautions against comparisons with the December 2018 quarter because of technical revisions to the series. Over the two years from December 2017, employment has grown by 2.9 percent.

remained high at 70.1 percent and 67.3 percent respectively and the unemployment rate was stable at 4.0 percent. The underutilisation rate, a broader measure of unemployment and under-employment, fell from 12.1 percent to 10.0 percent.

The labour shortages referred to in my two previous reports (Fletcher, 2018, 2019) continued during 2019, with a net 44 percent of firms reporting difficulty obtaining skilled labour and a net 27 percent saying the same with respect to unskilled labour (Ministry of Business Innovation and Employment, 2020). Salaries and wage grew by 2.6 percent, slightly higher than the Consumer Price Index increase of 2.4 percent. According to the Ministry of Business, Innovation and Employment, the wage growth was driven by the increase in the statutory minimum wage (see Section 4.9) and by pay rises for nurses, teachers and police (Ministry of Business Innovation and Employment, 2020). In other words, as noted last year, it does not appear that tight labour market conditions and skill shortages are leading to more generalised strong wage growth.

Numbers of temporary migrants under each of the three main categories of temporary work-related migration, Essential Skills, Working Holiday and Work Visas, grew during 2019, presumably in response to employer skill shortages. Currently, nine percent of all employees are temporary migrants. On the other hand, net permanent migration continued to slow, with a provisional estimate for the year to December of +43,800, compared to +49,400 the previous year. As is usually the case, New Zealand citizens were the largest group of both migrant arrivals and migrant departures. China, India and South Africa were the three next largest groups of long-term or permanent arrivals by citizenship and China, the United Kingdom and India were the next three in terms of migrant departures.

Government's fiscal position remains strong, with its operating balance, before gains and losses, forecast to reach \$5.9 billion or 1.5 percent of GDP by 2023/24. Net core Crown debt is forecast to reach \$76.3 billion (19.6 percent of GDP) by 2023/24, remaining within the Government's target of under 20 percent of GDP.

2.3. Social Conditions

Overall, social conditions in New Zealand were little changed in 2019 compared to the previous year.

Data published in mid-year showed that there had been no improvement in poverty rates in the year up to June 2018. For the population as a whole, relative poverty before adjusting for housing costs rose slightly from nine to 10 percent of people with equivalised household incomes below 50 percent of the median and from 19 to 20 percent below 60 percent. The comparable figures after adjusting for housing costs were 16 and 23 percent respectively.

Early in 2020, Statistics New Zealand released its estimates of child poverty for the year ended June 2019 as it is required to do under the Child Poverty Reduction Act 2018 (see last year's

report for discussion of this Act). An estimated 14.9 percent of children were below the 50 percent of median equivalised income poverty threshold, a 1.6 percentage point decrease compared with the previous year. The after-housing cost poverty measure (which is a 'constant value' measure adjusted from the 2017/18 base year only for changes in prices, not growth in the median income) fell 2.0 percentage points to 20.8 percent. The third primary measure set out in the Act relates to directly reported material hardship. That measure was 0.2 percent higher than the previous year, at 13.4 percent of all children under 18 years.

Overall, these child poverty statistics suggest that the Government would have needed to introduce substantial additional poverty alleviation measures in the 2019 Budget if it was to reach its stated child poverty targets for the 2020/21 June year. As is discussed in the Wellbeing Budget section below, it opted not to do this, and is likely therefore to meet only one of the three targets at best.

The number of working age people receiving a welfare benefit rose during 2019, reaching 314,408 by the end of December. This figure represents 10.5 percent of the working age population (i.e., those aged between 18 and 64 years inclusive). The biggest rise was among those receiving the Jobseeker Support benefit, which increased by 10.0 percent during the year to 147,464. This benefit category comprises people who are unemployed and available for work, sole parents whose youngest child is 14 years old or older and those who are unemployed but temporarily unavailable for work due to a health condition or disability. The number of people receiving Sole Parent Support (i.e., sole parents whose youngest child is below the age of 14) rose by 2.2 percent to 61,190. The other large benefit category is people with a long-term disability or health condition, who receive the Supported Living Payment. The number on this benefit increased 1.0 percent to 93,594. The increase in welfare receipt could be seen as at odds with the generally strong state of the labour market and low unemployment rate. It is likely that it reflects in part the current Government's less punitive approach to welfare access than was the case under the previous administration.

Another indicator of social conditions is the number of Temporary Additional Support payments and Hardship Assistance grants made by the Ministry of Social Development. These are a variety of temporary or one-off payments or loans for those unable to meet basic costs. They are available to all, but in practice are in most cases received by beneficiaries and, in that sense, reflect social conditions and income adequacy experienced by those reliant on welfare. During 2019, the number of people receiving the largest of these payments, the 13-week Temporary Additional Supplement, increased by 16 percent to 75,200. The number of smaller one-off grants continued to rise dramatically, totalling 573,851 for the year. This compares to 385,000 in 2018 and 290,000 in 2017.

Housing rental prices again grew faster than overall prices, increasing by 3.4 percent nationally for the year to December 2019. There are, however, signs that the rate of growth is slowing

in the Auckland city area especially. The median rent in Auckland⁵ in January 2020 was \$570 per week, equivalent to 32 hours minimum wage earnings (before tax).

3. CASE LAW DEVELOPMENTS

Previous reports (Fletcher, 2017, 2018) have covered the battle by people caring for their severely disabled adult children to be more adequately compensated by the Ministry of Health. In particular, last year's report discussed the case of 76-year-old Diane Moody who provides full-time care to her severely intellectually disabled son who is in his 50s. Mrs Moody won her High Court case and was offered 37 hours paid support under the Ministry's Family Funded Care policy. However, under that policy, it is not the Ministry who is the carer's employer but the disabled person themselves. Mrs Moody, and another carer in a similar situation took a case to the Employment Court seeking a declaration that her son was incapable of carrying out his obligations as an employer and that this obligation should rest with the Ministry. In August, shortly before the case was scheduled to be heard, the Ministry of Health reached a confidential out-of-court settlement with the two plaintiffs. The Government has also announced that it intends to broaden the criteria for the Family Funded Care scheme as well as abolishing the nonsensical employment relationship aspect.

There were no other significant case law developments during 2019. However, an inquiry by the Privacy Commissioner relating to how the Ministry of Social Development conducts its fraud investigations has close links to social security cases so is discussed here.

The Ministry of Social Development has powers under the Social Security Act 2018 to gather information to assess a person's eligibility for welfare. Since 2012, the Ministry's advice to staff was that they could go direct to third parties to collect such information without telling the beneficiary first or seeking their permission. This included text messages from telephone companies, police incident information, banking records and billing information from utilities and other companies. The Privacy Commissioner found that these powers were most commonly being used in investigations relating to whether a person was in a relationship 'in the nature of marriage'. Relationship status cases pursued by the Ministry have been notorious for many years and have resulted, in some cases, in large fines, debts and imprisonment (see, for example MacLennan (2016) for a detailed report on one case).

The Privacy Commissioner concluded that the Ministry was 'systematically misusing its powers' and that fraud investigations were 'intrusive, excessive and inconsistent with legal requirements' (Office of the Privacy Commissioner, 2019). His report recommended that the Ministry cease its current practice, review the current legislation, review its Code of Conduct and Decision Support Tool and develop better training and guidance for staff conducting

⁵ Data based on Trademe.co.nz listings, which is the largest online property listing outlet.

investigations. The Ministry of Social Development has said it accepts and is implementing the report's recommendations.

4. SOCIAL POLICY AND SOCIAL LAW DEVELOPMENTS DURING 2019

4.1. The First 'Wellbeing Budget'

Last year's report discussed the Treasury's Living Standards Framework and the Government's plans to introduce a broader Wellbeing Approach to its annual budget-setting and expenditure prioritisation approach. In May 2019, we got to see the first of these 'Wellbeing Budgets'.

While this new approach attracted considerable media attention, including internationally, and notwithstanding Ministers' comments to the contrary, it can be argued that the process *per se* is not very different from the past. As before, the Cabinet indicates to Ministers and agencies its priority areas for the Budget (albeit this was somewhat more public in 2019 than in previous years) and, as always, Departments and Ministers are urged, with more or less success, to work together, rather than in silos, towards the agreed outcomes. The critical factor is whether social and environmental outcomes, in addition to economic ones, can be captured in a new and more meaningful way through the use of the Living Standards Framework indicators and that this alters actual Budget decisions. It is possible that this may occur in future years, but it is not clear that it occurred in the 2019 Budget. Governments have always considered social and environmental outcomes to the extent that they felt inclined politically to do so. In this first round, at least, the new process has not changed this in any fundamental way.

That is not to say that the 2019 Budget was not in fact a wellbeing-focused one. The Government identified five broad priority areas for new spending: mental health, child wellbeing, supporting Māori and Pasifika aspirations, building a productive nation and transforming the economy. The biggest 'winner' in these was mental health and addiction services, a long-underfunded area of the health system. An additional \$1.9 billion was committed (over four years) to mental health initiatives, with a focus on youth services and those with mild to moderate needs. The funding included a plan to place a mental health worker in all general practice clinics and other front-line health services.

Under the child wellbeing heading, new initiatives included specialist services to address family and sexual violence, assistance for young adults transitioning out of State care and a subsidy to State schools to replace the so-called 'voluntary' school donations. There were also relatively small welfare benefit changes which are discussed in Section 4.4 below.

The detailed Budget documents can be found at <https://www.budget.govt.nz/index.htm>.

As part of the new approach, the Minister of Finance released in mid-December 2019 Government’s Budget Policy Statement for the forthcoming 2020 Budget. However, it is now clear that the impacts of the Covid-19 pandemic mean that document will have been superseded by events.

4.2. The Welfare Expert Advisory Group’s Report *Whakamana Tāngata*

In February, the Welfare Expert Advisory Group submitted its report, titled *Whakamana Tāngata*, to the Minister of Social Development. As described in my report last year, the Group had been established as part of the election negotiations with the Green Party. Its terms of reference were broad and far-reaching and required the Group to provide advice on how to overhaul the welfare system so it could meet Government’s vision of a welfare system that ‘ensures people have an adequate income and standard of living, are treated with and can live in dignity and are able to participate meaningfully in their communities’ (Welfare Expert Advisory Group, 2018, p. 184).⁶

The Group’s report was thorough and detailed, including 42 major and 120 additional recommendations. The Chair, Professor Cindy Kiro, summarised these overall as recommending ‘enabling the welfare system to serve its most basic functions and to move beyond being a “safety net” to enabling “whakamana tāngata” – restoring dignity to people so they can participate meaningfully with their families and communities’ (Welfare Expert Advisory Group, 2018, p. 2).

The report covered a wide of range of welfare issues including the purpose, values and principles statements in the Act, governance and performance, the administration of welfare systems, improving outcomes for Māori, income adequacy, employment assistance, and assistance for people with health conditions or disabilities.

The Group conducted a detailed analysis of the minimum level of income different family types needed to get by on. This analysis, consistent with submissions it received and its community consultations, highlighted how far below minimum adequacy levels the New Zealand social assistance system is. The report recommended increases in a number of support payments and including increases in core benefit rates ranging from nine to 47 percent. Using Treasury modelling, the Group estimated the cost of its proposals at around \$5.2 billion dollars per annum.

The Government’s response to the report was lukewarm at best. While accepting the report’s analysis and acknowledging the income adequacy (and other) problems, the Government put reform on what it described as a three- to five-year work programme, with work beginning immediately in some areas and others being deferred. As is described in Section 4.4 below, there were no increases in the core benefit rates announced in 2019, although the Budget did

⁶ The author was the Group’s independent Specialist Advisor.

pick up the Group’s recommendation to index future benefit increases to wage growth rather than only to price inflation. This change will be important in the long term but provides only a small payment increase in the short term. The Ministry of Social Development has also been improving the way it administers benefits and treats beneficiaries as was recommended by the Group, although most of the previous Government’s conditionality and sanctions rules remain unchanged.

The full report of the Welfare Expert Advisory Group is available at <http://www.weag.govt.nz/weag-report/whakamana-tangata/>.

4.3. Independent Panel Examining the 2014 Family Justice Reforms

The Independent Panel reviewing the 2014 family justice reforms submitted its final report to the Minister of Justice in May 2019. The 2014 reforms had been intended to move more family dispute resolution matters away from in-Court hearings to out-of-court processes. However, there had been ongoing concerns that the new processes were not effective, were not always operating in children’s best interests and were having some unintended consequences.

The Panel’s report recommends amendments to several Acts, as well as additional resourcing for family justice services. The Panel says the central objectives of its recommendations are to improve access to justice, place children at the centre of all processes and to better recognise a Māori world-view (te ao Māori) into the Family Court and other aspects of family justice services. Its major systemic recommendation is the formation of a new ‘joined-up family justice service’, which they propose be called Te Korowai Ture ā-Whānau⁷ (Ministry of Justice, 2019).

The Minister of Justice welcomed the report but went no further than asking his officials to develop ‘a workable programme for change’ by the end of the year (Little, 2019).

4.4. Social Welfare Benefits

Budget 2019 introduced three changes to social welfare benefits. The most significant of these was to link the annual indexation of main benefit rates to increases in average wages rather than increases in prices. More precisely, this means that on 1 April each year (starting in 2020) benefit rates will be increased by the greater of either the previous year’s increase in average wages or the increase in the Consumer Price Index. This change, which was recommended by the Welfare Expert Advisory Group, rectifies a situation where the level of welfare benefits was falling further and further behind the incomes of wage earners. Over time, this change

⁷ Ture ā-Whānau can be translated as family law or family justice system. A korowai is a woven cloak, which traditionally often reflected the mana or status of the wearer within their iwi or tribe. The panel explain their choice of this title as: ‘The Korowai symbolises the mana of the family justice service; it affirms that all who draw on it for protection, support and empowerment will be treated with dignity and respect.’

will have a large effect (assuming of course that wages grow in real terms due to productivity increases), but its impact in the first year will be small – about \$3 - \$5 per week extra depending on which benefit rate the person is receiving.

The second change was a small increase in benefit abatement thresholds, which are the amount a beneficiary is permitted to earn before their benefit begins to be reduced. For single and partnered Jobseeker Support beneficiaries the threshold was increased (beginning on 1 April 2020) by \$10 per week to \$90; for Sole Parents and Supported Living Payment beneficiaries it increased by \$15 per week to \$115.

The third Budget change was to remove a financial sanction applied to sole parents receiving a benefit who refuse to name their child's other parent. The purpose of this sanction had been so that Inland Revenue could pursue the other parent for child support (child maintenance) payments, which in New Zealand are retained by the State to defray benefit costs if the parent is on a welfare benefit. The sanction was a deduction from the benefit of \$22 per week, per child, plus an additional \$6 per week, per family after six months' refusal. Approximately 12,000 sole parents were affected by the provision. Removal of the sanction had been a Labour Party pledge prior to the 2017 election.

As mentioned above, these changes fell far short of the recommendations of the Welfare Expert Advisory Group. The absence of any increase in the core benefit rates and the small size of the additional spending on welfare assistance was criticised by many church, advocacy and community groups. Much of the post-Budget analysis in the media also expressed surprise at the lack of policy movement on welfare, especially given the Government's commitment to reducing child poverty.

4.5. Working for Families Family Tax Credits

Working for Families is the collective 'brand' name for the tax credits available to people caring for dependent children who meet certain conditions. The conditions applying to each tax credits have been outlined in previous reports, including last year's (Fletcher, 2019).

Financial assistance available through the tax credits was substantially increased as part of the Government's election-pledge 'Families Package', most of the changes came into effect on 1 July 2018 (see Fletcher, 2019). There were no further changes to Working for Families in 2019. The new *Best Start* payment available in respect of children under three years old did expand, however, in the technical sense that because it is only available to children born on or after 1 July 2018 it is still maturing.

4.6. Child Support

There were no changes in child support law or policy during the 2019 year. The usual 1 April annual inflation adjustments were made to parts of the child support formula, however. The

living allowance, which is the amount deducted from a person's income for their personal living costs, rose from \$19,585 per annum to \$19,867 per annum (and to \$22,713 for those on the Supported Living Payment). The minimum child support payment level increased from \$919 to \$936 per annum, per child for the 2019/20 year.

In the year to 30 June 2019, Inland Revenue collected \$471 million from 164,000 paying parents, almost exactly the same amount and same number of paying parents as in the 2018 year (Inland Revenue, 2019). It distributed \$290 million, or about 60 percent, of this to receiving parents while returning the remainder to the Crown accounts under the policy of not passing child support payments on to parents in receipt of a sole parent rate of benefit.⁸ The Government had indicated in 2018 that it may change this policy and the Welfare Expert Advisory Group strongly recommended that it do so. However, as it turned out, Government did not make this change in the 2019 Budget, saying only that it is one of the issues on its medium-term welfare work programme.

4.7. Social Housing and Accommodation Benefits

Last year's report discussed the poor performance of the Government's flagship 'KiwiBuild' programme which had been intended as the major contributor to the Labour Party's election promise to build 100,000 'affordable' homes over 10 years. The plan involved a rolling process of building houses to be sold mostly to first home buyers for less than \$600,000 and re-using the capital to build more. By the beginning of 2019 fewer than 200 homes had been built under the scheme.

In early 2019, the Minister, Phil Twyford, announced that there would be what he called a 'reset' of the policy, although the date for finalising the reset was extended several times. In June, the Prime Minister replaced Mr Twyford as Minister of Housing, announcing that housing would be managed by a trio of Ministers, led by the well-regarded Dr Megan Woods. A lower-ranked Minister, Kris Faafoi, took the role of Associate Minister (Public Housing), and Mr Twyford was made Minister for Urban Development.

In September, the new 'reset' policies were announced. The 100,000 homes target and the intermediate targets were dropped with the new Minister acknowledging they were 'overly ambitious'. No new target was set, with Government instead committing only to 'building as many homes as we can, as fast as we can in the right places' (Woods, 2019). At the same time access to assistance for other home-ownership schemes such as shared ownership was broadened, and the deposit some government-backed purchasers would be required to have was reduced to five percent.

Two new agencies were established in 2019 to administer Government's housing policies and activities. These are the Ministry of Housing and Urban Development (HUD) and Kāinga Ora –

⁸ Except for any excess that is greater than the benefit being paid.

Homes and Communities. Kāinga Ora is an amalgamation of Housing New Zealand, its wholly-owned development subsidiary, and the KiwiBuild Unit. It administers all State housing tenancies and has a responsibility for urban development partnerships. In English, kāinga translates as ‘home’; ora as ‘wellbeing’.

4.8. Paid Parental Leave

There were no changes to the paid parental leave scheme during 2019 other than the annual uprating of the minimum and maximum entitlements. The maximum duration of paid leave is 22 weeks and, under provisions enacted in the Parental Leave and Employment Protection Amendment Act 2017 is scheduled to rise to 26 weeks from 1 July 2020.

Within the minimum and maximum rates, paid parental leave entitlements are 100 percent of the person’s actual average weekly wage. For the year commencing 1 April 2019, the minimum is \$177 per week before tax and the maximum is \$585.80 per week. Payments are made by the Crown, through Inland Revenue, rather than by the employer. Families cannot receive the Best Start payment (see Section 4.5) for the duration of the period they are receiving paid parental leave.

4.9. Minimum Wages

Prior to the 2017 election, Labour committed to raising the statutory adult minimum wage to \$20 per hour by April 2021 by way of a series of annual increases. As part of this the minimum rate was increased from 1 April 2019 by \$1.20 to \$17.70 per hour. A further \$1.20 per hour increase is scheduled for 1 April 2020.

The two other statutory minimum rates remain at 80 percent of the adult rate and were therefore increased to \$14.16 per hour. These two rates are the ‘Training’ minimum wage which applies to apprentices and other trainees aged 20 years or older who are undertaking at least 60 credits of training, and the ‘Starting Out’ minimum wage which applies to 16- and 17-year-olds in their first six months of their employment (with the same employer). It also applies under the same terms to 18- and 19-year-olds if they had been on a welfare benefit for six months or more prior to commencing the job, and to 16- to 19-year-olds doing part-time industry training as part of their employment.

4.10. Kiwisaver

Kiwisaver is a Government-regulated, private superannuation scheme. While there are provisions for employees to opt out of the scheme if they do so within the first eight weeks of the automatic sign-up at the start of a new job, for most employees, contributions of at least three percent of wages are compulsory. Employers are required to match employee contributions up to three percent of annual wages. Government supports members’

contributions by way of a ‘member tax credit’ contribution of up to \$521 per annum. The scheme has 2.8 million members.

Government undertook a review of aspects of the scheme during 2019 ahead of the appointment (or re-appointment) of ‘default’ Kiwisaver providers scheduled for June 2021. The current default providers are nine investment companies, banks or bespoke Kiwisaver providers that new Kiwisaver enrolees are randomly assigned to unless they chose otherwise. There are also other providers in the market. While people can switch providers whenever they chose, approximately one third of automatic enrolees stay with the default provider they were allocated to.

Submissions on the review discussion paper were made public in November. Government decisions on the review are expected in early 2020. One key issue in the review is the type of fund automatic enrolees should be allocated to. At present, all automatic enrolments are to their providers’ ‘conservative investment’ fund, rather than to a ‘balanced’ or ‘growth’ fund, which include greater proportions of higher risk investments. In their submissions, the existing default providers were split between shifting to automatic enrolment into a balanced fund portfolio and those who favoured the proposed alternative life-cycle approach which would move progressively from higher- to lower-risk investments as the account holder got closer to retirement age.

On one of the other key issues, the providers unsurprisingly generally took the view that account management fees were fair and reasonable and they did not favour any regulation of maximum fees as had been proposed in a now-withdrawn private member’s Bill introduced to Parliament by the New Zealand First Deputy Leader, Fletcher Tabuteau.

4.11. Public Health

As mentioned in Section 4.1 above, the 2019 Budget included substantial new spending for mental health and drug and alcohol addiction services (although most of the extra money comes through in out-years). In addition, there were a number of new primary health care initiatives especially for Māori and Pasifika health service programmes. However, analysis by the New Zealand Council of Trade Unions economist and director of policy and research for the Association of Salaried Medical Specialists concluded that ‘overall operational funding is \$134 million behind what is needed to pay for rising costs, aging and increasing population, and new services announced in the Budget’ with most of this being borne by the already over-stretched public hospital sector which is administered by the 20 District Health Boards (Rosenberg and Keene, 2019).

A second health-related issue that came to the fore during 2019 was abortion law reform. Currently, abortion services in New Zealand are regulated under the Contraception, Sterilisation, and Abortion Act 1977 and the Crimes Act 1961. There is a system requiring two registered ‘certifying consultants’ to determine that a requested abortion would be legal. The

main grounds for permitting abortions are a high risk that the child would be born seriously handicapped or that there is ‘serious danger...to the life, or physical or mental health of the woman or girl’. Abortion is not permitted beyond 20 weeks gestation other than in exceptional circumstances. New Zealand has a moderate abortion rate by OECD standards of about 13.7 abortions per 1,000 women aged 15 – 44 years (this figure equates to about 19 percent of all known pregnancies).

Pre-election, the Prime Minister had indicated that her preference was to update the existing 1977 legislation so as to remove abortion-related offences from the Crimes Act. She also indicated that, as has always been the case in this and similar matters, voting on any legislation should be on an individual conscience basis rather than by party vote.⁹

In May, after a Government-requested report from the Law Commission, the Minister of Justice introduced a Bill which would substantially liberalise and simplify abortion law. Abortions are permitted on request up to 20 weeks’ gestation and beyond 20 weeks, if the health practitioner is satisfied that abortion is ‘clinically appropriate’ and has consulted one other health practitioner.

The Bill has attracted polarised debate, although it appears to have majority support among the community and Members of Parliament. By the end of the year, the Bill was in its Select Committee stage and is expected to have its final reading in Parliament in March or April 2020.

4.12. Accident Compensation

There were no legislative changes to New Zealand’s social-insurance-based system of accident compensation or to the Accident Compensation Corporation (ACC).

The ACC has been actively involved in paying compensation to, and funding of rehabilitation of, those injured in the mosque attacks and the families of those killed. The ACC also contributed \$40 million to the cost of the Government’s gun buy-back programme following the mosque shootings. ACC estimates that the removal of these guns will save them \$70.5 million in claim costs over the next 20 years.

⁹ In fact of course, it is up to each political party to make their own decision on this, although all the parties chose to opt for a conscience vote.

5. DEVELOPMENTS RELATING TO INTERNATIONAL SOCIAL SECURITY ARRANGEMENTS

There have been no changes in New Zealand’s international reciprocal social security arrangements. There are currently agreements with Australia, Canada, Denmark, the Republic of Ireland, Jersey, Guernsey, Greece, Malta, the Netherlands, and the United Kingdom.

A disagreement between New Zealand and Australia continued to grow in intensity during 2019, and by the year’s end it remains unresolved. The issue centres on a 2014 change to section 501 of Australia’s Immigration Act to include the compulsory deportation of non-citizens who have been sentenced to 12 months or more in prison or are convicted of child sex offenses. While the policy applies to all non-Australians, it has a particular impact on New Zealanders both because of the large number of kiwis who live in Australia (approximately 650,000) and because of the open borders between the two countries that have existed since the 1973 Trans-Tasman Travel Arrangements agreement. That agreement means that Australians and New Zealanders can live and work in each other’s country without needing to apply for citizenship. Even though Australia unilaterally restricted access to welfare for non-citizens in 2001, a large number of people born in New Zealand continued living in Australia without applying for citizenship (and indeed, not all of them could have passed the citizenship requirements).

There have now been about 2,000 section 501 deportations from Australia to New Zealand and many of these are people who have lived in Australia since childhood, have family there and, often, few connections to New Zealand. The New Zealand Government’s position is that these people should have the right to remain in Australia and further, that, to the extent that some of them are ‘of bad character’, this is an Australian problem and not one to be passed on to New Zealand. In addition, the problem is exacerbated by having some of these people held for considerable lengths of time with minimal human rights protections in the offshore Christmas Island detention centre.

6. RELEVANT ACTS OF PARLIAMENT PASSED DURING 2019

6.1. Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019

This Amendment Act received royal assent on 11 April, less than one month after the mosque attacks in Christchurch. It prohibits certain classes of firearms, notably most semi-automatic firearms and pump-action shotguns. It also prohibits magazines and parts that could be used to convert an otherwise legal firearm into one with rapid-fire capability. The Act received near-unanimous Parliamentary support, with the exception being the single vote of the libertarian ACT party.

The Act contains various other provisions further regulating arms dealers and matters relating to the possession and carrying of firearms.

In June, the Police amnesty and buy-back scheme commenced pursuant to regulations under the Act. The scheme specified buy-back prices for different types of guns and ran for six months to 20 December.

There is a further Bill currently before Parliament, the Arms Legislation Bill, which includes tougher licensing provisions, higher penalties and a firearms register (at present, it is only the owner, not the gun, that is registered.) This Bill does not have National Party support, who argue it goes too far, and will require support from the New Zealand First Party to succeed.

6.2. Corrections Amendment Act

This Act passed into law on 28 October 2019. It includes a variety of amendments to improve the Department of Corrections' ability to safely manage prisoners, but its main focus relates to prisoners at risk of self-harm. The amendments require new prisoners to be assessed for self-harm risk and it establishes at-risk management plans for all prisoners assessed as at risk of harming themselves.

6.3. Credit Contracts Legislation Amendment Bill

This Bill was passed by Parliament in December 2019. It amends various Acts, principally the Credit Contracts and Consumer Finance Act 2003. The main purpose of the Bill is to regulate the excessive interest rate and penalty payments charged by so-called 'loan-sharks' or third-tier money lenders who offer small loans to low-income people not able to access loans from more standard sources. The legislation caps total payments for interest and fees at no more than 100 percent of the amount borrowed and caps interest rates at a maximum of 0.8 percent in interest and fees per day.

6.4. Education (Pastoral Care) Amendment Act 2019

This Act, passed in December, sets out a regulatory regime for tertiary education institutions and student hostel providers with respect to their duty of pastoral care towards their students. It also allows the Minister of Education to set out a Code of Practice for pastoral care. The Act follows a shocking case in which the body of a student who died in his hostel room in Christchurch was not discovered for approximately one month. The coroner was unable to make a finding as to the cause of death because of the decomposition of the body, but it is thought to have been from natural causes.

6.5. Education (School Donations) Act

This Act, which came into force in October, gives the Minister of Education the power to make grants to schools that do not 'seek or receive any solicited voluntary payments from parents'. The objective is to give effect to a Government policy to offer schools a grant of \$150 per student if they agree not to seek 'voluntary' school donations from parents. The great majority of schools rely on parent donations to supplement Government funding, but many lower-

income families find the expected donation a significant drain on family resources. The Ministry of Education classifies all New Zealand schools (rather imperfectly) according to the socio-economic status of the community they serve, and this policy has been applied to schools in the lower seven deciles of rankings. Nearly all schools in Decile 1 – 7 have taken up the Government grant offer.

6.6. End of Life Choice Act 2019

This highly controversial private member's Bill in the name of the ACT Party member, David Seymour, passed in November 2019. It allows some people to seek a medically assisted death. To be eligible a person must have a terminal illness that is likely to cause their death within six months; be in an advanced, irreversible state of physical decline; and be experiencing unbearable suffering that cannot be relieved. An earlier provision that would have included anyone with 'a grievous and irreversible medical condition' (and who also met the physical decline and suffering conditions) was removed from the Bill.

An unusual outcome of the negotiations over the Bill is a condition that, although the Act has been passed by Parliament, it will not come into force unless it receives majority support in a public referendum to be held in conjunction with the General Election in late 2020.

The final version of the Bill passed on a conscience vote with a majority of 69 votes to 51.

6.7. Kāinga Ora – Homes and Communities Act 2019

As mentioned in Section 4.7, this Act was passed to establish the new Government agency, Kāinga Ora – Homes and Communities, which combines several pre-existing governmental housing functions into one organisation. It also includes a requirement that the Minister of Finance and the Minister responsible for the Act must issue a Government policy statement on housing and urban development no later than October 2021 and review it at least once every three years thereafter. The Act spells out the purpose, content and status of this policy statement.

7. REFERENCES

- Fletcher, M. (2017). *Developments in Social Legislation and Policy in New Zealand. Reported Period: 2016*. Munich, Social Law Reports No. 2/2017.
- Fletcher, M. (2018). *Developments in Social Legislation and Policy in New Zealand: 'Jacindamania' and a New Government*, Munich, Social Law Reports No. 2/2018.
- Fletcher, M. (2019). *Towards Wellbeing? Developments in Social Legislation and Policy in New Zealand*, Munich, Social Law Reports No. 2/2019.
- Inland Revenue. (2019). *Annual Report*. Wellington, Inland Revenue. Retrieved from Wellington: <https://www.ird.govt.nz/about-us/publications/annual-corporate-reports/annual-report>
- Little, A. (2019). *Independent Panel's Report on Family Justice System Welcomed*. Retrieved from Wellington: <https://www.beehive.govt.nz/release/independent-panel%E2%80%99s-report-family-justice-system-welcomed>
- MacLennan, C. (2016). *Kathryn's Story: How the Government Spent well over \$100,000 and 15 Years Pursuing a Chronically Ill Beneficiary Mother for a Debt She Should not Have*. Auckland, Child Poverty Action Group. Retrieved from Auckland: <https://www.cpag.org.nz/assets/Publications/4-0%2031964%20Kathryn%27s%20Story.pdf>
- Ministry of Business Innovation and Employment. (2020). *Quarterly Labour Market Report: February 2020*. Retrieved from Wellington: <https://www.mbie.govt.nz/business-and-employment/employment-and-skills/labour-market-reports-data-and-analysis/quarterly-labour-market-report/>
- Ministry of Justice. (2019). *Te korowai ture ā-whānau: The Final Report of the Independent Panel Examining the 2014 Family Justice Reforms*. Wellington, Ministry of Justice. Retrieved from Wellington: <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/family-court-rewrite/#final-report>
- New Zealand Treasury. (2019). *Half Year Economic and Fiscal Update: December 2019*. Retrieved from Wellington: <https://treasury.govt.nz/publications/efu/half-year-economic-and-fiscal-update-2019>
- Office of the Privacy Commissioner. (2019). *Inquiry into the Ministry of Social Development's Exercise of Section 11 (Social Security Act 1964) and Compliance with the Code of Conduct*. Retrieved from Wellington: <https://www.privacy.org.nz/news-and-publications/statements-media-releases/msd-fraud-investigations-privacy-commissioner/>

Reserve Bank of New Zealand. (2020). *Monetary Policy Statement: February 2020*. Retrieved from <https://www.rbnz.govt.nz/monetary-policy/monetary-policy-statement/mps-february-2020>

Rosenberg, B. & Keene, L. (2019). *Did the 2019 Budget Provide Enough for Health?* New Working Paper on Health No. 22, Wellington, Zealand Council of Trade Unions. Retrieved from Wellington: <https://www.union.org.nz/wp-content/uploads/2019/08/Did-the-Budget-provide-enough-for-Health-2019.pdf>

Welfare Expert Advisory Group. (2019). *Whakamana Tāngata: Restoring Dignity to Social Security in New Zealand*. Wellington, Welfare Expert Advisory Group. Retrieved from Wellington: <http://www.weag.govt.nz/weag-report/>

Woods, M. (2019). *Government Resets KiwiBuild to Help more New Zealanders into Home Ownership*. Retrieved from Wellington: <https://www.beehive.govt.nz/release/government-resets-kiwibuild-help-more-new-zealanders-home-ownership>

Dr. Michael Fletcher
Senior Research Fellow
Institute for Governance and Policy Studies
Wellington School of Business and Government | Ōrauariki
Te Herenga Waka—Victoria University of Wellington, Aotearoa—New Zealand
www.wgtn.ac.nz | 0800 04 04 04
E-mail: michael.fletcher@vuw.ac.nz